

Assembly Bill No. 1088

CHAPTER 355

An act to amend Section 1048 of, and to repeal and add Section 1051 of, the Military and Veterans Code, and to add and repeal Article 11.3 (commencing with Section 18810) of Chapter 3 of Part 10.2 of Division 2 of, and to repeal Article 11.5 (commencing with Section 18825) of Chapter 3 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to veterans.

[Approved by Governor September 25, 2010. Filed with
Secretary of State September 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1088, Fletcher. Taxpayer contributions: California Veterans Homes Fund.

Under existing law regulating the administration of the Personal Income Tax Law, individual taxpayers are allowed to contribute amounts in excess of their tax liability for the support of specified funds or accounts, including, among others, the Veterans' Quality of Life Fund. Existing law requires the expenditure of all moneys contributed to the fund, upon appropriation by the Legislature, for administrative costs and for distribution into the Morale, Welfare, and Recreation Fund for each of the veterans homes, as provided.

This bill would repeal those provisions, and instead allow individuals to designate on their tax returns that a specified amount in excess of their tax liability be transferred to the California Veterans Homes Fund, which would be created by this bill. However, the bill would provide that a voluntary contribution designation for this fund may not be added on the tax return until another voluntary contribution designation is removed from that return.

This bill would, like the expenditure of all moneys contributed to the Veterans' Quality of Life Fund, require the expenditure of all moneys contributed to the California Veterans Homes Fund, upon appropriation by the Legislature, for administrative costs and for distribution into the Morale, Welfare, and Recreation Fund for each of the veterans homes, as provided. This bill would require any funds remaining in the Veterans' Quality of Life Fund to be transferred to the California Veterans Homes Fund.

This bill would provide that these voluntary contribution provisions be repealed on January 1 of the 5th taxable year following the taxable year the fund first appears on the personal income tax return. This bill would further provide that these provisions would be repealed for taxable years beginning on or after January 1 of the calendar year in which the Franchise Tax Board estimates by September 1 that the contributions made on returns filed in that calendar year will be less than \$250,000, or an adjusted amount for subsequent taxable years.

The people of the State of California do enact as follows:

SECTION 1. Section 1048 of the Military and Veterans Code is amended to read:

1048. (a) The Morale, Welfare, and Recreation Fund shall include proceeds from the California Veterans Homes Fund, operations of the Veterans' Home Exchange, revenue derived from the issuance of prisoner-of-war special license plates pursuant to Section 5101.5 of the Vehicle Code, all funds derived from golf course green fees and range ball fees, all donations to the fund, interest earned on invested funds, funds derived from the estates of deceased members, and any other moneys or property described in this chapter, including, but not limited to, moneys and properties received by the home from estate assets located outside the home, regardless of amount.

(b) The administrator shall prepare an itemized report that is organized by category and accounts for all funds deposited into the Morale, Welfare, and Recreation Fund and transmitted to the Controller under Section 1047 during the previous fiscal year and shall submit the report on or before August 20 of each year to all of the following:

- (1) The secretary.
- (2) The fiscal committees of the Assembly and the Senate.
- (3) The committees of the Assembly and the Senate that have subject matter jurisdiction over veterans affairs.
- (4) The Veterans' Home Allied Council.

SEC. 2. Section 1051 of the Military and Veterans Code is repealed.

SEC. 3. Section 1051 is added to the Military and Veterans Code, to read:

1051. (a) There is hereby established in the State Treasury the California Veterans Homes Fund to receive those amounts transferred to the fund pursuant to Section 18811 of the Revenue and Taxation Code.

(b) Any funds remaining in the Veterans' Quality of Life Fund, as established by Section 2 of Chapter 143 of the Statutes of 2005, shall be transferred to the California Veterans Homes Fund established by subdivision (a).

SEC. 4. Article 11.3 (commencing with Section 18810) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 11.3. California Veterans Homes Fund

18810. (a) Any individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Veterans Homes Fund established by Section 1051 of the Military and Veterans Code. That designation is to be used as a voluntary contribution on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year and once made is irrevocable. If payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as if no designation has been made. If no designee is specified, the contribution shall be transferred to the General Fund after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article.

(d) The Franchise Tax Board shall revise the form of the return to include a space labeled the "California Veterans Homes Fund" to allow for the designation permitted. The form shall also include in the instructions information that the contribution may be in the amount of one dollar (\$1) or more and that the contribution shall be used for veterans homes operations.

(e) Notwithstanding any other law, a voluntary contribution designation for the California Veterans Homes Fund may not be added on the tax return until another voluntary contribution designation is removed.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

18811. The contributions made pursuant to Section 18810 shall be transferred for deposit in the California Veterans Homes Fund established by Section 1051 of the Military and Veterans Code.

18812. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability, and the amount of refund money that taxpayers have designated, pursuant to Section 18810 to be transferred to the California Veterans Homes Fund established by Section 1051 of the Military and Veterans Code. The Controller shall transfer from the Personal Income Tax Fund to the California Veterans Homes Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18810 for payment into that fund.

18813. All moneys transferred to the California Veterans Homes Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) To the Department of Veterans Affairs for allocation to the administrators of veterans homes. Moneys allocated pursuant to this subdivision shall be distributed proportionally to the Morale, Welfare, and Recreation Fund of each veterans home pursuant to Section 1047 of the Military and Veterans Code.

(c) Appropriations from the General Fund for the funding of those purposes described in subdivision (b) may not be reduced for the purpose of, or to have the effect of, requiring increased expenditures from the California Veterans Homes Fund for those described purposes.

18814. It is the intent of the Legislature that this article create an additional funding source for veterans homes and shall be used to supplement, not supplant, other funding sources for veterans homes.

18815. (a) This article shall remain in effect only until January 1 of the fifth taxable year following the first appearance of the California Veterans Homes Fund on the tax return, and as of that date is repealed, unless a later enacted statute, that is enacted before the applicable date, deletes or extends that date.

(b) (1) By September 1 of the second calendar year, and by September 1 of each subsequent calendar year that the California Veterans Homes Fund appears on a tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes the next calendar year.

(B) Provide written notification to the Department of Veterans Affairs of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received and an estimate of the contributions that will be received by using the actual amounts received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000) for the second calendar year after the first appearance of the California Veterans Homes Fund on the personal income tax return or the adjusted minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with the third calendar year that the California Veterans Homes Fund appears on the tax return, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior September 1 multiplied by the inflation factor adjustments as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

SEC. 5. Article 11.5 (commencing with Section 18825) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code is repealed.

O